

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA) CRIMINAL CASE NO. 04-10231-MLW
)
)
 v.)
)
)
PETER V. MAGGIO, III, ET AL.)
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)

GOVERNMENT'S OPPOSITION TO MOTION OF DEFENDANT TO PRECLUDE
THE GOVERNMENT'S ATTORNEY FROM PRESENTING JENCKS ACT
MATERIAL TO THE DEFENDANT'S COUNSEL IN FRONT OF THE JURY

The defendant seeks an Order of this Court precluding Government counsel from presenting Jencks Act material to defense counsel in the presence of the jury "so that the jury does not get the idea that the Government is doing something for the defendant as well as prosecuting him."

The Government opposes the defendant's extraordinary motion as neither practical nor supported by facts or law.

1. The Government has provided "open book" disclosure in this case, including the December 14, 2004, voluntary production of more than 75 FBI 302's from interviews of some 34 witnesses.
2. The Government has made supplemental disclosure along the way regarding statements of co-defendant/witness Jeffrey Deveau.
3. The Government will continue to make supplemental disclosure as circumstances may warrant, including supplemental disclosure, if necessary, during the course of the trial.
4. Indeed, in the unlikely event it becomes necessary, this may Order the production of Jencks Act materials to the defense during the course of the trial.

5. Moreover, nothing about the delivery of materials, Jencks Act or otherwise, to the defense in the presence of the jury suggests either gratuitous conduct by the Government or the creation of any inappropriate appearance.

WHEREFORE, the Government opposes defendant Havey's motion to preclude government counsel from presenting Jencks Act material to defense counsel in the presence of the jury.

Respectfully submitted this 7th day of April, 2006.

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CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the attorneys listed below a copy of the foregoing document.

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